S.B.Civil Misc. Appeal No.649/2004

Mukesh Kumar

vs.

Salman Khan & Ors.

DATE OF ORDER : - 2.8.2004

HON'BLE MR. PRAKASH TATIA,J.

Mr.Rajesh Panwar, for the appellant.

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Heard learned counsel for the appellant. Perused the record also.

Brief facts of the case are that claimant-appellant Mukesh Kumar suffered injuries in the accident, which occurred on 29th Nov., 2001. According to appellant because of the fracture a rod was inserted in his leg and he incurred expenditure of Rs.21,865/-. The claimant claimed taxi expenses of Rs.2,000/- and Rs.1,000/- for his diet and Rs.1,000/- for service of his family members. It is submitted that he was engaged in the business of Hair Cutting and was of the age of 19 years only. It is submitted that because of fracture he is having difficulty in walking also. He advised to take rest for six months. According to learned counsel for the appellant, the tribunal committed serious illegality in awarding only Rs.73,500/- as compensation and further committed illegality in awarding interest @ 6% per annum only.

I perused the facts of the case and the record.

It is clear that claimant was of the age of 19 years only. He submitted medical bills, which show that he incurred expenditure of more than Rs.21,000/-, but less then Rs.22,000/-. Therefore, the tribunal awarded Rs.22,000/- to the claimant on this count. The claimant produced disability certificate Ex.6, but he did not produce any document showing that he was advised to take rest for six months. Therefore, the tribunal held that the claimant must have taken rest upto the period of two and half months only. The tribunal rightly disbelieved the evidence of the plaintiff so far as his claim of income of Rs.5,000/- is concerned. The tribunal carefully considered the evidence and held that claimant's income can be assessed to Rs.3,500/-. The tribunal awarded compensation of Rs. 40,000/- on account of permanent disablement.

In the totality of the facts of this case, I do not find that the tribunal has committed any illegality in awarding the compensation of Rs.73,500/- in total nor it can be said to be in lower side.

The contention of the learned counsel for the appellant is that the tribunal awarded interest @ 6% per annum. I perused the reasons given in the award. The tribunal held that the claim petition was filed in the month of Dec., 2002, but non-claimants were not served till 31st July, 2003 and for this, the claimant himself caused delay. It may be true that the reason given by the tribunal may be weak, but there appears to be no reason for entertaining this appeal for mere considering the right of

the claimant for enhancement of the interest only.

In view of the above, I do not find any merit in this appeal and the same is hereby dismissed.

(Prakash Tatia), J.

c.p.goyal/-